

House File 824 - Introduced

HOUSE FILE 824

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 507)

A BILL FOR

1 An Act relating to consideration of the educational setting of
2 a minor child in a child custody proceeding.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 598.1, Code 2021, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Educational setting*" means a public
4 school, an accredited nonpublic school, competent private
5 instruction in accordance with the provisions of chapter 299A,
6 or any other method of educational instruction that satisfies
7 the compulsory education requirements of chapter 299.

8 Sec. 2. Section 598.10, subsection 1, Code 2021, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. c. If the parents are in disagreement over a
11 minor child's educational setting, the court shall consider the
12 educational setting of the minor child in making a temporary
13 order for custody. There is a rebuttable presumption that
14 it is in the best interest of the minor child to remain in
15 the educational setting in which the minor child was enrolled
16 during the immediately preceding school year. However, if
17 the child is enrolled in a public school, the presumption
18 is rebutted if both parents no longer reside in the school
19 district in which the educational setting is located. If the
20 court does not grant as part of the temporary order that the
21 minor child remain in the educational setting in which the
22 minor child was enrolled during the immediately preceding
23 school year, the court shall make a finding, by a preponderance
24 of the evidence in the record, that such educational setting is
25 not in the best interest of the child.

26 Sec. 3. Section 598.41, Code 2021, is amended by adding the
27 following new subsections:

28 NEW SUBSECTION. 4A. If joint legal custody is awarded
29 to both parents, but the parents are in disagreement over a
30 minor child's educational setting, the court shall consider,
31 and include a provision in the custody order regarding, the
32 educational setting of the minor child. There is a rebuttable
33 presumption that it is in the best interest of the minor child
34 to remain in the educational setting in which the minor child
35 was enrolled during the immediately preceding school year.

1 However, if the child is enrolled in a public school, the
 2 presumption is rebutted if both parents no longer reside in the
 3 school district in which the educational setting is located.
 4 If the court does not grant as part of the custody order that
 5 the minor child remain in the educational setting in which
 6 the minor child was enrolled during the immediately preceding
 7 school year, the court shall make a finding, by a preponderance
 8 of the evidence in the record, that such educational setting is
 9 not in the best interest of the child.

10 NEW SUBSECTION. 10. All orders relating to custody of a
 11 child shall specify the rights and responsibilities of each
 12 parent relative to the minor child's educational setting.
 13 The order shall, at a minimum, specify a parent's rights
 14 and responsibilities regarding physical access to the child
 15 during the school day; access to records involving the health,
 16 education, and welfare of the child; decision-making authority
 17 including instances when parental consent or authorization is
 18 required; and the removal of the child from the premises of the
 19 educational setting during school hours. Any parent with legal
 20 custody of the child shall provide a copy of the order to the
 21 educational setting and to the school district of the child to
 22 whom the order applies.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
 25 the explanation's substance by the members of the general assembly.

26 This bill provides that in determining temporary custody
 27 orders or the award of joint legal custody for a minor child,
 28 if the parents are in disagreement over the minor child's
 29 educational setting, the court is to consider the educational
 30 setting of the minor child. In the case of awarding joint
 31 legal custody, the court is also to include a provision in
 32 the order regarding the educational setting of the minor
 33 child. There is a rebuttable presumption that it is in the
 34 best interest of the minor child to remain in the educational
 35 setting in which the minor child was enrolled during the

1 immediately preceding school year. However, if the child is
2 enrolled in a public school, the presumption is rebutted if
3 both parents no longer reside in the school district in which
4 the educational setting is located. If the court does not
5 grant that the minor child remain in the educational setting
6 in which the minor child was enrolled during the immediately
7 preceding school year, the court shall make a finding by
8 a preponderance of the evidence in the record that such
9 educational setting is not in the best interest of the child.
10 The bill also defines "educational setting".

11 The bill directs that all court orders relating to
12 the custody of a child shall specify the rights and
13 responsibilities of each parent relative to the minor child's
14 educational setting and specifies the minimum rights and
15 responsibilities to be addressed in the order. The bill
16 requires that any parent with legal custody of the child is to
17 provide a copy of the order to the educational setting and to
18 the school district of the child to whom the order applies.